Montana Legislative History

Chapter: 373 Session L: 2011

Bill Number: HB 460

Checklist of Bill History

History and Final Status Sheet	x
Introduced Bill	X
Fiscal Note	n/a
Third Reading Bill	X
Final Version of Bill	X

House

Committee:
Taxation

Hearing Date(s):

Feb. 11, 2011

Feb. 18, 2011 (Exec. Action)

Senate

Committee: Taxation

Hearing Date(s):
March 16, 2011

March 22, 2011 (Exec. Action)

Conference Committee

Hearing Date(s): n/a

Conference Committee Report:

Compiler Notes

Compiled by: sg

Date: 10/11/24

Notes:

Bill Explorer - HB 460: Revise unit ownership act affecting townhouses

Summary

Sponsoredby: Peterson, Ken
(R) HD 46

Progress		
Status	**Date**	**Passed**
Introduced	02/08/11	✓
Passed (H) Committee	02/18/11	✓
Passed House	03/05/11	✓
Passed (S) Committee	03/22/11	✓
Passed Senate	04/02/11	✓
To Governor	05/02/11	✓

Draft #	LC1880
Amendment(s)	No
Chapter #	373
Current Status	Chapter Number Assigned
Co-Sponsor(s)	None
Drafter	Campbell, Bart
Requester	Peterson, Ken
Fiscal Note	No

Preintroduction Required	No
Category	Revenue Bills
Subject(s)	Housing, Taxation--Property,
Transmittal Date	03/30/11
Return Date	04/13/11

Sections Affected	Effective Date	Qualifier
All Sections	05/12/2011	

Status

Date	Action	Committee	Yes Votes	No Votes
05/12/11	Chapter Number Assigned			
05/12/11	(H) Signed by Governor			
05/02/11	(H) Transmitted to Governor			
04/29/11	(S) Signed by President			
04/26/11	(H) Signed by Speaker			
04/20/11	(H) Returned from Enrolling			
04/20/11	(C) Printed - Enrolled Version Available			
04/19/11	(H) Sent to Enrolling			
04/19/11	(H) 3rd Reading Passed as Amended by Senate		99	0
04/19/11	(H) Scheduled for 3rd Reading			
04/18/11	(H) 2nd Reading Senate Amendments Concurred		90	1
04/18/11	(H) Scheduled for 2nd Reading			
04/02/11	(S) Returned to House with Amendments			
04/02/11	(S) 3rd Reading Concurred		46	1
04/02/11	(S) Scheduled for 3rd Reading			
04/01/11	(S) 2nd Reading Concurred		48	2

Date	Action	Committee	Yes Votes	No Votes
04/01/11	(S) Scheduled for 2nd Reading			
03/22/11	(C) Printed - New Version Available			
03/22/11	(S) Committee Report--Bill Concurred as Amended	(S) Taxation		
03/22/11	(S) Committee Executive Action--Bill Concurred as Amended	(S) Taxation	9	0
03/16/11	(S) Hearing	(S) Taxation		
03/09/11	(S) Hearing Canceled	(S) Taxation		
03/07/11	(S) Referred to Committee	(S) Taxation		
03/07/11	(S) First Reading			
03/05/11	(H) Transmitted to Senate			
03/05/11	(H) 3rd Reading Passed		96	0
03/05/11	(H) Scheduled for 3rd Reading			
03/04/11	(H) 2nd Reading Passed		96	3
03/04/11	(H) Scheduled for 2nd Reading			
02/18/11	(C) Printed - New Version Available			
02/18/11	(H) Committee Report--Bill Passed as Amended	(H) Taxation		
02/18/11	(H) Committee Executive Action--Bill Passed as Amended	(H) Taxation	19	0
02/11/11	(H) Hearing	(H) Taxation		
02/08/11	(C) Introduced Bill Text Available Electronically			
02/08/11	(H) Referred to Committee	(H) Taxation		

Date	Action	Committee	Yes Votes	No Votes
02/08/11	(H) First Reading			
02/08/11	(H) Introduced			
02/04/11	(C) Draft Delivered to Requester			
01/31/11	(C) Draft Ready for Delivery			
01/29/11	(C) Draft in Assembly/Executive Director Review			
01/28/11	(C) Draft in Final Drafter Review			
01/28/11	(C) Bill Draft Text Available Electronically			
01/28/11	(C) Draft in Input/Proofing			
01/28/11	(C) Draft to Drafter - Edit Review [SAB]			
01/25/11	(C) Draft in Legal Review			
01/25/11	(C) Draft to Requester for Review			
12/31/10	(C) Draft Request Received			

Showing 1 to 47 of 47 entries

Fiscal

Date	Status
No matching results found	

Fiscal Documents
No matching results found

Fiscal Rebuttals
No matching results found

Amendments

Amendment	Condensed Version
No Amendments found	

Documents And Links

Previous Versions

HB0460_1.pdf

Other

None

the persons who are candidates for offices to be filled at the election, a certified copy of the form in which each ballot issue to be voted on by the people at that election is to appear on the ballot.

(2) The secretary of state shall list for each *ballot* issue:

(a) the number;

(b) the method of placement on the ballot;

(c) the title;

(d) the attorney general's explanatory statement, if applicable;

(e) the fiscal statement, if applicable;

(f) the ~~statements~~ *statement* of ~~the~~ *purpose and* implication ~~of a vote for or against the issue that are to be placed beside the diagram for marking the ballot~~;

(g) the yes and no statements; and

~~(g)~~*(h)* a statement that the *ballot* issue conflicts with one or more issues, referenced by number, that also appear on the ballot, if applicable.

(3) When required to do so, the secretary of state shall use for each ballot issue the title of the legislative act or legislative constitutional proposal or the title provided by the attorney general or district court. Following the number of the ballot issue, the secretary of state, when required to do so, shall include one of the following statements to identify why the issue has been placed on the ballot:

(a) an act referred by the legislature;

(b) an amendment to the constitution proposed by the legislature;

(c) an act of the legislature referred by referendum petition; or

(d) a law or constitutional amendment proposed by initiative petition."

Section 9. Effective date. [This act] is effective January 1, 2013.

Approved May 12, 2011

CHAPTER NO. 373

[HB 460]

AN ACT REQUIRING THE DEPARTMENT OF REVENUE TO ESTABLISH BY RULE A METHOD FOR VALUING TOWNHOUSES; DEFINING "TOWNHOUSE" AND "TOWNHOME"; PROVIDING THAT THE UNIT OWNERSHIP ACT MAY APPLY TO TOWNHOUSES; CONFORMING PROVISIONS OF THE UNIT OWNERSHIP ACT WITH THE DEFINITIONS OF "TOWNHOUSE" AND "TOWNHOME"; AMENDING SECTIONS 15-8-111, 70-23-102, 70-23-103, 70-23-301, AND 76-3-203, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-8-111, MCA, is amended to read:

"15-8-111. Assessment — market value standard — exceptions. (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

(c) If the department uses the capitalization-of-net-income method as one approximation of market value and sufficient, relevant information on comparable sales and construction cost exists, the department shall rely upon the two methods that provide a similar market value as the better indicators of market value.

(d) Except as provided in subsection (3), the market value of special mobile equipment and agricultural tools, implements, and machinery is the average wholesale value shown in national appraisal guides and manuals or the value before reconditioning and profit margin. The department shall prepare valuation schedules showing the average wholesale value when a national appraisal guide does not exist.

(3) The department may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property, except:

(a) the wholesale value for agricultural implements and machinery is the average wholesale value category as shown in Guides 2000, Northwest Region Official Guide, published by the North American equipment dealers association, St. Louis, Missouri. If the guide or the average wholesale value category is unavailable, the department shall use a comparable publication or wholesale value category.

(b) for agricultural implements and machinery not listed in an official guide, the department shall prepare a supplemental manual in which the values reflect the same depreciation as those found in the official guide;

(c) *(i)* for condominium property, the department shall establish the value as provided in subsection (4); *and*

(ii) for a townhome or townhouse, as defined in 70-23-102, the department shall determine the value in a manner established by the department by rule; and

(d) as otherwise authorized in Titles 15 and 61.

(4) (a) Subject to subsection (4)(c), if sufficient, relevant information on comparable sales is available, the department shall use the comparable sales method to appraise residential condominium units. Because the undivided interest in common elements is included in the sales price of the condominium units, the department is not required to separately allocate the value of the common elements to the individual units being valued.

(b) Subject to subsection (4)(c), if sufficient, relevant information on income is made available to the department, the department shall use the capitalization-of-net-income method to appraise commercial condominium units. Because the undivided interest in common elements contributes directly to the income-producing capability of the individual units, the department is not required to separately allocate the value of the common elements to the individual units being valued.

(c) If sufficient, relevant information on comparable sales is not available for residential condominium units or if sufficient, relevant information on income is not made available for commercial condominium units, the department shall value condominiums using the construction-cost method. When using the construction-cost method, the department shall determine the value of the entire condominium project and allocate a percentage of the total value to each

individual unit. The allocation is equal to the percentage of undivided interest in the common elements for the unit as expressed in the declaration made pursuant to 70-23-403, regardless of whether the percentage expressed in the declaration conforms to market value.

(5) For purposes of taxation, assessed value is the same as appraised value.

(6) The taxable value for all property is the percentage of market or assessed value established for each class of property.

(7) The assessed value of properties in 15-6-131 through 15-6-134, 15-6-143, and 15-6-145 is as follows:

(a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515, 15-23-516, 15-23-517, or 15-23-518.

(b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

(c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

(d) Properties in 15-6-134, under class four, are assessed at the applicable percentage of market value minus any portion of market value that is exempt from taxation under 15-6-222.

(e) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value of the land when valued as forest land.

(f) Railroad transportation properties in 15-6-145 are assessed based on the valuation formula described in 15-23-205.

(8) Land and the improvements on the land are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town."

Section 2. Section 70-23-102, MCA, is amended to read:

"70-23-102. Definitions. In this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Association of unit owners" means all the unit owners acting as a group in accordance with the declaration and bylaws.

(2) "Building" means a multiple-unit building or buildings comprising a part of the property.

(3) "Common elements" means the general common elements and the limited common elements.

(4) "Common expenses" means:

(a) expenses of administration, maintenance, repair, or replacement of the common elements;

(b) expenses agreed upon as common by all the unit owners; and

(c) expenses declared common by 70-23-610 and 70-23-612 or by the declaration or the bylaws of the particular condominium.

(5) "Condominium" means the ownership of single units with common elements located on property submitted to the provisions of this chapter. *The term does not include a townhome or townhouse.*

(6) "Declaration" means the instrument by which the property is submitted to the provisions of this chapter.

(7) "General common elements", unless otherwise provided in a declaration or by consent of all the unit owners, means:

(a) the land on which the building is located, except any portion of the land included in a unit or made a limited common element by the declaration;

(b) the foundations, columns, girders, beams, supports, mainwalls, roofs, halls, corridors, lobbies, stairs, fire escapes, entrances, and exits of the building;

(c) the basements, yards, gardens, parking areas, and outside storage spaces, private pathways, sidewalks, and private roads;

(d) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, waste disposal, and incinerating;

(e) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;

(f) the premises for the lodging of janitors or caretakers of the property; and

(g) all other elements of the building necessary or convenient to its existence, maintenance, and safety or normally in common use.

(8) "Limited common elements" means those common elements designated in the declaration or by agreement of all the unit owners as reserved for the use of a certain unit or number of units to the exclusion of the other units.

(9) "Majority" or "majority of the unit owners", unless otherwise provided in the declaration, means the owners of more than 50% in the aggregate of the undivided ownership interests in the general common elements as the percentage of interest in the element appertaining to each unit is expressed in the declaration. Whenever a percentage of the unit owners is specified, percentage means the percentage in the aggregate of undivided ownership.

(10) "Manager" means the manager, board of managers, or other person in charge of the administration of or managing the property.

(11) "Project" means a real estate condominium project whereby a condominium of two or more units located on property submitted to the provisions of this chapter are offered or proposed to be offered for sale.

(12) "Property" means the land, all buildings, improvements, and structures on the land, and all easements, rights, and appurtenances belonging to the land that are submitted to the provisions of this chapter.

(13) "Recording officer" means the county officer charged with the duty of filing and recording deeds and mortgages or other instruments or documents affecting the title to real property.

(14) "Townhome" or "townhouse" means property that is owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities.

~~(14)~~*(15)* "Unit" means a part of the property including one or more rooms occupying one or more floors or a part or parts of the property intended for any type of independent use and with a direct exit to a public street or highway or to a common area or area leading to a public street or highway.

~~(15)~~*(16)* "Unit designation" means the number, letter, or combination of numbers and letters designating a unit in the declaration.

~~(16)~~*(17)* "Unit owner" means the person owning a unit in fee simple absolute individually or as co-owner in any real estate tenancy relationship recognized under the laws of this state. However, for all purposes, including the exercise of

voting rights, provided by lease filed with the presiding officer of the association of unit owners, a lessee of a unit must be considered a unit owner."

Section 3. Section 70-23-301, MCA, is amended to read:

"70-23-301. Contents of declaration. A declaration must contain:

(1) a description of the land, whether leased or in fee simple, on which the building is located or is to be located;

(2) the name by which the property will be known and a general description of the building, including the number of stories and basements, the number of units, and the principal materials of which it is constructed;

(3) the unit designation, location, approximate area of each unit, and any other data necessary for proper identification;

(4) a description of the general common elements and the percentage of the interest of each unit owner in the common elements;

(5) a description of the limited common elements, if any, stating to which units their use is reserved and in what percentage;

(6) a statement of the use for which the building and each of the units is intended;

(7) the name of a person to receive service of process in the cases provided in 70-23-901 and the residence or place of business of the person which must be within the county in which the property is located;

(8) an exhibit containing certification from the applicable local government that the condominiums, *townhomes, or townhouses* are either exempt from review under 76-3-203 or have been approved following review under Title 76, chapter 3, parts 5 and 6; and

(9) any other details regarding the property that the person executing the declaration considers desirable."

Section 4. Section 76-3-203, MCA, is amended to read:

"76-3-203. Exemption for certain condominiums. Condominiums, *townhomes, or townhouses, as those terms are defined in 70-23-102,* constructed on land subdivided in compliance with parts 5 and 6 of this chapter or on lots within incorporated cities and towns are exempt from the provisions of this chapter if:

(1) the approval of the original subdivision of land expressly contemplated the construction of the condominiums, *townhomes, or townhouses* and any applicable park dedication requirements in 76-3-621 are complied with; or

(2) the condominium, *townhome, or townhouse* proposal is in conformance with applicable local zoning regulations when local zoning regulations are in effect."

Section 5. Section 70-23-103, MCA, is amended to read:

"70-23-103. Applicability — submission by declaration required — *optional declaration for townhouses.* *(1)* In order to submit any property to the provisions of this chapter, the sole owner or sole lessee or all of the owners or all of the lessees ~~thereof~~ *of the property* shall execute, acknowledge, and record a declaration in the office of the recording officer of the county in which the property is located. The declaration ~~shall~~ *must* be executed in accordance with 70-23-301.

(2) A declaration for a townhome or townhouse may be executed under this section. The provisions of this chapter apply to townhomes or townhouses only if a declaration is executed under this section."

Section 6. Effective date. [This act] is effective on passage and approval.

Section 7. Applicability. [Section 1] applies to tax years beginning after December 31, 2011.

Approved May 12, 2011

CHAPTER NO. 374

[HB 560]

AN ACT INCREASING PUBLIC INVOLVEMENT IN THE CREATION AND OPERATION OF URBAN RENEWAL DISTRICTS; REQUIRING THE URBAN RENEWAL DISTRICT TO INCLUDE THE AMOUNT OF THE TAX INCREMENT OF THE DISTRICT IN THE REPORT FILED WITH THE MUNICIPALITY; AND AMENDING SECTIONS 7-15-4214, 7-15-4215, AND 7-15-4237, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-15-4214, MCA, is amended to read:

"7-15-4214. Hearing on urban renewal plan required. (1) The local governing body shall hold a public hearing on an urban renewal plan ~~after public notice thereof~~ *prior to adoption as provided in 7-1-4131. Notice of the hearing must be published as provided in 7-1-4127, and mail notice as provided in 7-1-4129 must be given to property owners of the district.*

(2) Upon receipt of the recommendations of the planning commission~~,~~ or if no recommendations are received within ~~said~~ 60 days, then without such recommendations, the local governing body may proceed with the hearing on the proposed urban renewal project plan."

Section 2. Section 7-15-4215, MCA, is amended to read:

"7-15-4215. Notice of hearing on urban renewal plan. (1) The notice required by 7-15-4214(1) must be given by publication as provided in 7-1-4127 and by mailing a notice of the hearing, not less than 10 days prior to the date of the hearing, to the persons whose names appear on the county treasurer's tax ~~roll~~ *records* as the owners, reputed owners, or purchasers under contracts for deed of the property, at the address shown on the tax ~~roll~~ *record*.

(2) The notice must*:*

(a) describe the time, date, place, and purpose of the hearing~~,~~*;*

(b) ~~generally identify~~ *specify the proposed boundary of* the urban renewal area affected~~,~~*;*

(c) ~~and~~ outline the general scope of the urban renewal plan under consideration*;*

(d) specify the goals the municipality has in the rehabilitation and renewal of the area; and

(e) indicate the method of financing the urban renewal area and whether the municipality intends to use tax increment financing and bonds to be paid from tax increment financing."

Section 3. Section 7-15-4237, MCA, is amended to read:

"7-15-4237. Annual report. (1) An agency authorized to transact business and exercise powers under *part 43 and* this part ~~and part 43~~ shall file with the local governing body, on or before September 30 of each year, a report of its activities for the preceding fiscal year.

HOUSE BILL NO. 460

INTRODUCED BY K. PETERSON

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF REVENUE TO ESTABLISH BY RULE A METHOD FOR VALUING TOWNHOUSES; DEFINING "TOWNHOUSE" AND "TOWNHOME"; PROVIDING THAT THE UNIT OWNERSHIP ACT DOES NOT APPLY TO TOWNHOUSES; AMENDING SECTIONS 15-8-111, 70-23-102, AND 70-23-103, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-8-111, MCA, is amended to read:

"15-8-111. Assessment -- market value standard -- exceptions. (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

(c) If the department uses the capitalization-of-net-income method as one approximation of market value and sufficient, relevant information on comparable sales and construction cost exists, the department shall rely upon the two methods that provide a similar market value as the better indicators of market value.

(d) Except as provided in subsection (3), the market value of special mobile equipment and agricultural tools, implements, and machinery is the average wholesale value shown in national appraisal guides and manuals or the value before reconditioning and profit margin. The department shall prepare valuation schedules showing the average wholesale value when a national appraisal guide does not exist.

(3) The department may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property, except:

(a) the wholesale value for agricultural implements and machinery is the average wholesale value

category as shown in Guides 2000, Northwest Region Official Guide, published by the North American equipment dealers association, St. Louis, Missouri. If the guide or the average wholesale value category is unavailable, the department shall use a comparable publication or wholesale value category.

(b) for agricultural implements and machinery not listed in an official guide, the department shall prepare a supplemental manual in which the values reflect the same depreciation as those found in the official guide;

(c) (i) for condominium property, the department shall establish the value as provided in subsection (4); and

(ii) for a townhome or townhouse, as defined in 70-23-102, the department shall determine the value in a manner established by the department by rule; and

(d) as otherwise authorized in Titles 15 and 61.

(4) (a) Subject to subsection (4)(c), if sufficient, relevant information on comparable sales is available, the department shall use the comparable sales method to appraise residential condominium units. Because the undivided interest in common elements is included in the sales price of the condominium units, the department is not required to separately allocate the value of the common elements to the individual units being valued.

(b) Subject to subsection (4)(c), if sufficient, relevant information on income is made available to the department, the department shall use the capitalization-of-net-income method to appraise commercial condominium units. Because the undivided interest in common elements contributes directly to the income-producing capability of the individual units, the department is not required to separately allocate the value of the common elements to the individual units being valued.

(c) If sufficient, relevant information on comparable sales is not available for residential condominium units or if sufficient, relevant information on income is not made available for commercial condominium units, the department shall value condominiums using the construction-cost method. When using the construction-cost method, the department shall determine the value of the entire condominium project and allocate a percentage of the total value to each individual unit. The allocation is equal to the percentage of undivided interest in the common elements for the unit as expressed in the declaration made pursuant to 70-23-403, regardless of whether the percentage expressed in the declaration conforms to market value.

(5) For purposes of taxation, assessed value is the same as appraised value.

(6) The taxable value for all property is the percentage of market or assessed value established for each class of property.

(7) The assessed value of properties in 15-6-131 through 15-6-134, 15-6-143, and 15-6-145 is as

follows:

(a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515, 15-23-516, 15-23-517, or 15-23-518.

(b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

(c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

(d) Properties in 15-6-134, under class four, are assessed at the applicable percentage of market value minus any portion of market value that is exempt from taxation under 15-6-222.

(e) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value of the land when valued as forest land.

(f) Railroad transportation properties in 15-6-145 are assessed based on the valuation formula described in 15-23-205.

(8) Land and the improvements on the land are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town."

Section 2. Section 70-23-102, MCA, is amended to read:

"70-23-102. Definitions. In this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Association of unit owners" means all the unit owners acting as a group in accordance with the declaration and bylaws.

(2) "Building" means a multiple-unit building or buildings comprising a part of the property.

(3) "Common elements" means the general common elements and the limited common elements.

(4) "Common expenses" means:

(a) expenses of administration, maintenance, repair, or replacement of the common elements;

(b) expenses agreed upon as common by all the unit owners; and

(c) expenses declared common by 70-23-610 and 70-23-612 or by the declaration or the bylaws of the particular condominium.

(5) "Condominium" means the ownership of single units with common elements located on property submitted to the provisions of this chapter. The term does not include a townhome or townhouse.

(6) "Declaration" means the instrument by which the property is submitted to the provisions of this chapter.

(7) "General common elements", unless otherwise provided in a declaration or by consent of all the unit owners, means:

(a) the land on which the building is located, except any portion of the land included in a unit or made a limited common element by the declaration;

(b) the foundations, columns, girders, beams, supports, mainwalls, roofs, halls, corridors, lobbies, stairs, fire escapes, entrances, and exits of the building;

(c) the basements, yards, gardens, parking areas, and outside storage spaces, private pathways, sidewalks, and private roads;

(d) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, waste disposal, and incinerating;

(e) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;

(f) the premises for the lodging of janitors or caretakers of the property; and

(g) all other elements of the building necessary or convenient to its existence, maintenance, and safety or normally in common use.

(8) "Limited common elements" means those common elements designated in the declaration or by agreement of all the unit owners as reserved for the use of a certain unit or number of units to the exclusion of the other units.

(9) "Majority" or "majority of the unit owners", unless otherwise provided in the declaration, means the owners of more than 50% in the aggregate of the undivided ownership interests in the general common elements as the percentage of interest in the element appertaining to each unit is expressed in the declaration. Whenever a percentage of the unit owners is specified, percentage means the percentage in the aggregate of undivided ownership.

(10) "Manager" means the manager, board of managers, or other person in charge of the administration

of or managing the property.

(11) "Project" means a real estate condominium project whereby a condominium of two or more units located on property submitted to the provisions of this chapter are offered or proposed to be offered for sale.

(12) "Property" means the land, all buildings, improvements, and structures on the land, and all easements, rights, and appurtenances belonging to the land that are submitted to the provisions of this chapter.

(13) "Recording officer" means the county officer charged with the duty of filing and recording deeds and mortgages or other instruments or documents affecting the title to real property.

(14) "Townhome" or "townhouse" means property that is owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities.

~~(14)~~(15) "Unit" means a part of the property including one or more rooms occupying one or more floors or a part or parts of the property intended for any type of independent use and with a direct exit to a public street or highway or to a common area or area leading to a public street or highway.

~~(15)~~(16) "Unit designation" means the number, letter, or combination of numbers and letters designating a unit in the declaration.

~~(16)~~(17) "Unit owner" means the person owning a unit in fee simple absolute individually or as co-owner in any real estate tenancy relationship recognized under the laws of this state. However, for all purposes, including the exercise of voting rights, provided by lease filed with the presiding officer of the association of unit owners, a lessee of a unit must be considered a unit owner."

Section 3. Section 70-23-103, MCA, is amended to read:

"70-23-103. Applicability -- submission by declaration required -- inapplicability to townhouses. (1) In order to submit any property to the provisions of this chapter, the sole owner or sole lessee or all of the owners or all of the lessees ~~thereof~~ of the property shall execute, acknowledge, and record a declaration in the office of the recording officer of the county in which the property is located. The declaration ~~shall~~ must be executed in accordance with 70-23-301.

(2) The provisions of this chapter do not apply to townhomes or townhouses."

NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 5. Applicability.** [Section 1] applies to tax years beginning after December 31, 2011.

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: Chair Mark Blasdel, on February 11, 2011 at 9:00 A.M., in Room 152 Capitol

ROLL CALL

Members Present:

Rep. Mark Blasdel, Chairman (R)
Rep. Dick Barrett, Vice Chairman (D)
Rep. Mike Miller, Vice Chairman (R)
Rep. Steve Fitzpatrick (R)
Rep. Kelly Flynn (R)
Rep. Alan Hale (R)
Rep. Brian Hoven (R)
Rep. Austin Knudsen (R)
Rep. Steve Lavin (R)
Rep. Sue Malek (D)
Rep. Edith (Edie) McClafferty (D)
Rep. Mary McNally (D)
Rep. Jerry O'Neil (R)
Rep. Mike Phillips (D)
Rep. Lee Randall (R)
Rep. Janna Taylor (R)
Rep. Kathleen Williams (D)
Rep. Max Yates (R)

Members Excused: None

Members Absent: Rep. Wayne Stahl (R)

Staff Present: Lisa Adams, Committee Secretary
Jeff Martin, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:	HB 460, 2/8/2011
Executive Action:	HB 222; HB 248; HB 293; HB 308; HB 333

HEARING ON HB 460

Opening Statement by Sponsor:

00:00:04 Rep. Ken Peterson (R), HD 46, opened the hearing on HB 460, Revise unit ownership act to exclude townhouses.

Proponents' Testimony:

00:02:34 Tom Llewellyn, Realtor
00:03:43 Rep. Stahl arrived.
00:07:25 Linda Stoll, Missoula County
00:08:19 Joe Roberts, Montana Association of Realtors (MAR)
00:08:55 Dustin Stewart, Montana Building Industry Association (MBIA)
00:08:55 Rep. Knudsen left.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:10:24 Rep. O'Neil
00:10:43 Rep. Peterson
00:11:44 Rep. O'Neil
00:12:06 Rep. Peterson
00:12:17 Rep. O'Neil
00:12:29 Rep. Peterson
00:13:26 Rep. Flynn
00:13:40 Rep. Peterson
00:13:51 Rep. Flynn
00:14:00 Rep. Peterson
00:14:10 Vice Chairman Miller
00:14:53 Rep. Peterson
00:15:27 Rep. Knudsen arrived.
00:15:51 Rep. Phillips
00:16:02 Rep. Peterson
00:16:11 Rep. Williams
00:16:41 Mr. Llewellynn
00:16:49 Rep. Phillips left.

Closing by Sponsor:

00:17:48 Rep. Peterson

00:18:51 Rep. Phillips arrived.

EXECUTIVE ACTION ON HB 192

HB 192 previous executive action February 2, 2011.

00:19:19 **Motion/Vote:** Rep. O'Neil moved that **HB 192 BE RECONSIDERED AND REMOVED FROM TABLED**. Motion carried unanimously by voice vote.

00:20:15 **Motion:** Rep. O'Neil moved that **HB 192 DO PASS AS AMENDED**.

Discussion:
00:21:30 Rep. O'Neil
00:22:48 Rep. Hoven
00:22:53 Rep. O'Neil
00:23:00 Rep. Hoven
00:23:14 Rep. O'Neil
00:23:45 Rep. Barrett
00:24:00 Mr. Martin
00:25:25 Rep. Taylor
00:26:08 Rep. Barrett
00:26:57 Rep. Hoven
00:27:47 Rep. Stahl
00:27:58 Mr. Martin
00:28:19 Chairman Blasdel
00:28:25 Rep. Malek
00:28:43 Mr. Martin
00:29:12 Rep. Malek
00:29:15 Mr. Martin
00:30:01 Rep. McNally
00:30:17 Mr. Martin

00:30:33 **Vote:** Motion carried 11-8 by roll call vote with Rep. Barrett, Rep. Blasdel, Rep. Hoven, Rep. Malek, Rep. McClafferty, Rep. McNally, Rep. Phillips and Rep. Williams voting no.

00:31:58 Chairman Blasdel

EXECUTIVE ACTION ON HB 293

00:32:12 **Motion:** Rep. Miller moved that **HB 293 DO PASS**.

00:33:03 **Motion:** Rep. O'Neil moved that **HB 293 BE AMENDED**.
EXHIBIT(tah34a01)

Discussion:
00:33:30 Rep. O'Neil
00:34:14 Rep. Williams
00:34:26 Rep. O'Neil
00:34:50 Rep. Stahl
00:35:25 Rep. Fitzpatrick
00:35:55 Rep. O'Neil

00:36:27 Rep. Barrett
00:39:36 Rep. O'Neil
00:41:14 Rep. Barrett
00:42:50 Rep. Phillips
00:43:34 Mr. Martin
00:44:09 Rep. Williams
00:44:38 Mr. Martin
00:44:55 Rep. Williams
00:45:03 Rep. O'Neil
00:45:08 Rep. Barrett

00:45:48 **Vote:** Motion on amendment failed unanimously by voice vote.

00:46:09 **Vote:** Motion carried unanimously by voice vote.

00:46:20 Chairman Blasdel

EXECUTIVE ACTION ON HB 248

00:46:46 **Motion:** Rep. Miller moved that **HB 248 DO PASS**.

Discussion:
00:47:02 Vice Chairman Miller
00:47:43 Rep. Hoven
00:48:31 Vice Chairman Miller
00:48:46 Rep. Barrett
00:48:55 Rep. Phillips
00:49:29 Vice Chairman Miller
00:49:44 Rep. Stahl

00:52:58 **Vote:** Motion carried 12-7 by roll call vote with Rep. Barrett, Rep. Hoven, Rep. Malek, Rep. McClafferty, Rep. McNally, Rep. Phillips and Rep. Williams voting no.

EXECUTIVE ACTION ON HB 222

00:54:00 **Motion:** Rep. Barrett moved that **HB 222 DO PASS**.

00:54:09 **Motion:** Rep. Barrett moved that **HB 222 BE AMENDED**.
EXHIBIT(tah34a02)

Discussion on amendment:
00:59:10 Vice Chairman Miller
00:59:41 Rep. Barrett
01:00:12 Mr. Gene Walborn, Department of Revenue (DOR)
01:00:35 Rep. Stahl
01:01:00 Mr. Walborn
01:01:35 Rep. Stahl
01:01:48 Mr. Walborn
01:01:53 Rep. O'Neil

01:02:33 Mr. Walborn
01:02:49 Chairman Blasdel

01:03:25 **Vote:** Motion failed 8-11 by roll call vote with Rep. Barrett, Rep. Hoven, Rep. Malek, Rep. McClafferty, Rep. McNally, Rep. O'Neil, Rep. Phillips and Rep. Williams voting aye.

Discussion:
01:04:00 Rep. Malek
01:05:14 Vice Chairman Miller
01:05:36 Rep. O'Neil
01:06:43 Rep. Barrett
01:08:26 Rep. Phillips
01:08:55 Vice Chairman Miller
01:09:16 Rep. Barrett
01:10:28 Rep. Hoven
01:11:40 Rep. McNally
01:12:20 Vice Chairman Miller
01:12:35 Rep. Yates
01:13:30 Rep. Barrett
01:14:37 Rep. Yates
01:15:03 Rep. Barrett
01:15:27 Rep. Malek
01:17:37 Rep. Williams
01:18:44 Vice Chairman Miller

01:20:14 **Vote:** Motion failed 8-11 by roll call vote with Rep. Barrett, Rep. Fitzpatrick, Rep. Hoven, Rep. Malek, Rep. McClafferty, Rep. McNally, Rep. Phillips and Rep. Williams voting aye.

01:20:19 **Motion/Vote:** Rep. Blasdel moved that **HB 222 BE TABLED AND THE VOTE REVERSED**. Motion carried 18-1 by voice vote with Rep. Phillips voting no.

01:21:02 Rep. O'Neil

ADJOURNMENT

01:21:06 Adjournment: 10:26 am

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Lisa Adams, Secretary

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Additional Exhibits:

EXHIBIT(tah34a03)

Additional Documents:

EXHIBIT(tah34aad.pdf)

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: Chair Mark Blasdel, on February 18, 2011 at 9:00 A.M., in Room 152 Capitol

ROLL CALL

Members Present:

Rep. Mark Blasdel, Chairman (R)
Rep. Dick Barrett, Vice Chairman (D)
Rep. Mike Miller, Vice Chairman (R)
Rep. Kelly Flynn (R)
Rep. Alan Hale (R)
Rep. Brian Hoven (R)
Rep. Austin Knudsen (R)
Rep. Steve Lavin (R)
Rep. Sue Malek (D)
Rep. Mary McNally (D)
Rep. Jerry O'Neil (R)
Rep. Mike Phillips (D)
Rep. Wayne Stahl (R)
Rep. Janna Taylor (R)
Rep. Max Yates (R)

Members Excused: Rep. Edith (Edie) McClafferty (D)
Rep. Lee Randall (R)

Members Absent: Rep. Steve Fitzpatrick (R)
Rep. Kathleen Williams (D)

Staff Present: Lisa Adams, Committee Secretary
Jeff Martin, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:	HB 463, 2/16/2011; SB 11, 2/16/2011; SB 12, 2/16/2011
Executive Action:	HB 168; HB 333; HB 357; HB 358; HB 460

HEARING ON SB 11

Opening Statement by Sponsor:
00:01:15 Sen. Ron Erickson (D), SD 47, opened the hearing on SB 11, Reduce withholding tax rate for lottery winnings.

00:01:15 Rep. Stahl left.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony:
00:03:20 John Tarr, Montana Lottery

Questions from Committee Members and Responses: None

Closing by Sponsor:
00:03:43 Sen. Erickson

HEARING ON SB 12

Opening Statement by Sponsor:
00:04:15 Sen. Ron Erickson (D), SD 47, opened the hearing on SB 12, Repeal obsolete business equipment property tax reimbursement.

Proponents' Testimony:
00:05:27 Sheryl Wood, Montana Association of Counties (MACo)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:
00:06:05 Rep. Barrett
00:06:10 Sen. Erickson
00:06:18 Rep. Barrett
00:06:32 Sen. Erickson
00:06:52 Rep. O'Neil
00:07:05 Sen. Erickson

Closing by Sponsor:
00:07:13 Sen. Erickson

HEARING ON HB 463

Opening Statement by Sponsor:
00:07:47 Rep. Scott Reichner (R), HD 9, opened the hearing on HB 463, Revise property tax reappraisal process by specifying burden of proof on value.

00:13:07 Rep. Blasdel
00:13:12 Rep. Barrett

Proponents' Testimony:
00:13:18 Joe Roberts, Montana Association of Realtors (MAR)
00:16:42 Rep. O'Neil left.
00:17:03 Debbie Biolo, self
00:17:25 Rep. O'Neil arrived.
00:18:10 Rep. Hale left.
00:19:51 Rep. Williams arrived.
00:22:04 Rep. Hale arrived.
00:25:09 Carol Tibbles, Realtor
00:26:29 Ginny Reed, self
00:29:02 Caroline Solomon, Big Fork
00:29:44 Alice Blasdel, Business Owner, Sommers

Opponents' Testimony:
00:30:58 Dan Bucks, Director, Department of Revenue (DOR)
00:37:49 Cynthia Monteau Moore, Administrator Property Assessment Division, DOR
00:38:32 Rep. Stahl arrived.
00:39:14 Rep. Stahl left.
00:42:08 Rep. Stahl arrived.
00:42:31 Rep. Phillips left.
00:43:12 C.A. Daw, Chief Legal, DOR
00:45:51 Rep. Phillips arrived.
00:49:53 Rep. McNally left.

Informational Testimony: None

Questions from Committee Members and Responses:
00:51:00 Rep. Barrett
00:51:13 Ms. Monteau Moore, DOR
00:51:22 Rep. Barrett
00:51:48 Ms. Monteau Moore
00:52:08 Rep. Barrett
00:52:12 Ms. Monteau Moore
00:52:17 Rep. Barrett
00:52:21 Ms. Monteau Moore
00:52:28 Rep. Barrett
00:52:41 Ms. Monteau Moore
00:52:57 Rep. Barrett
00:54:23 Rep. Reichner
00:54:41 Rep. Stahl left.
00:57:34 Rep. McNally arrived.
00:59:26 Rep. Phillips
00:59:52 Rep. Reichner
01:00:01 Rep. Phillips
01:01:01 Rep. Reichner
01:02:06 Rep. Knudsen left.
01:02:12 Rep. Taylor

01:02:33 Mr. Daw, DOR
01:02:54 Rep. Taylor
01:03:05 Mr. Daw
01:03:45 Rep. Randall arrived.
01:04:41 Rep. Taylor
01:06:32 Ms. Monteau Moore
01:07:26 Rep. Malek
01:08:09 Ms. Monteau Moore
01:08:59 Rep. Malek
01:09:16 Ms. Monteau Moore
01:09:29 Rep. Malek
01:09:35 Ms. Monteau Moore
01:09:41 Rep. Malek
01:09:53 Ms. Monteau Moore
01:10:04 Rep. Malek
01:10:09 Ms. Monteau Moore
01:10:17 Rep. Malek
01:10:53 Ms. Monteau Moore
01:11:20 Rep. Williams
01:11:25 Rep. Knudsen arrived.
01:11:44 Mr. Daw
01:13:50 Rep. O'Neil
01:14:47 Dir. Bucks, DOR
01:15:32 Rep. Stahl arrived.
01:17:25 Rep. O'Neil
01:17:38 Dir. Bucks
01:19:03 Rep. O'Neil
01:19:37 Rep. Reichner
01:22:40 Rep. Barrett
01:24:30 Rep. Phillips
01:25:06 Ms. Monteau Moore
01:25:08 Rep. Phillips
01:25:18 Ms. Monteau Moore
01:25:22 Rep. Phillips
01:25:48 Rep. Reichner
01:26:05 Rep. Malek left.
01:26:28 Rep. Knudsen
01:28:20 Dir. Bucks
01:29:20 Rep. Stahl left.
01:30:56 Rep. Knudsen
01:31:09 Dir. Bucks
01:31:44 Rep. Hoven
01:32:08 Dir. Bucks
01:33:04 Rep. Hale
01:33:24 Dir. Bucks
01:33:38 Rep. Hale
01:33:48 Rep. Barrett
01:35:03 Rep. Malek returned.
01:35:42 Mr. Roberts, MAR
01:36:52 Rep. Barrett

01:37:12 Rep. Stahl arrived.
01:37:13 Mr. Roberts
01:38:00 Rep. Barrett
01:38:33 Vice Chairman Miller
01:38:50 Ms. Monteau Moore
01:40:07 Vice Chairman Miller
01:40:14 Ms. Monteau Moore
01:40:20 Rep. Stahl left.
01:40:39 Vice Chairman Miller
01:40:57 Rep. Phillips
01:40:57 Rep. McNally left.
01:41:01 Ms. Monteau Moore
01:41:10 Vice Chairman Miller
01:41:32 Rep. Phillips left.
01:41:34 Dir. Bucks
01:42:38 Rep. McNally arrived.
01:43:33 Rep. Lavin
01:43:37 Rep. Phillips arrived.
01:43:57 Ms. Monteau Moore
01:44:42 Rep. Lavin
01:44:51 Ms. Monteau Moore
01:45:04 Rep. Lavin
01:45:19 Ms. Monteau Moore
01:45:32 Chairman Blasdel
01:46:14 Ms. Monteau Moore
01:46:39 Rep. Barrett
01:46:53 Ms. Monteau Moore
01:47:10 Rep. Yates
01:47:28 Ms. Monteau Moore

Closing by Sponsor:
01:47:42 Rep. Reichner

01:53:00 Recessed.
02:06:42 Resumed with Rep. Randall and Rep. McClafferty absent.

EXECUTIVE ACTION ON HB 168

02:07:31 **Motion:** Rep. Miller moved that **HB 168 DO PASS**.

Discussion:
02:07:59 Rep. Williams
02:08:51 Rep. McNally arrived.
02:09:12 Vice Chairman Miller
02:09:45 Chairman Blasdel

02:11:26 **Vote:** Motion failed 7-12 by roll call vote with Rep. Knudsen, Rep. Lavin, Rep. Miller, Rep. Randall, Rep. Stahl, Rep. Taylor and Rep. Yates voting aye.

02:11:27 **Motion/Vote:** Rep. Flynn moved that **HB 168 BE TABLED AND THE VOTE REVERSED**. Motion carried unanimously by voice vote, present and voting.

EXECUTIVE ACTION ON HB 333

02:11:37 **Motion:** Rep. Miller moved that **HB 333 DO PASS**.

02:12:22 Mr. Martin
02:12:28 Chairman Blasdel

02:12:45 **Motion:** Rep. Miller moved that **HB 333 BE AMENDED.**
EXHIBIT(tah40a01)

02:12:58 Mr. Martin
02:13:37 Rep. Barrett

02:14:04 **Vote:** Motion carried unanimously by voice vote. Rep. McClafferty and Rep. Randall voted by proxy.

02:14:48 **Motion:** Rep. Barrett moved that **HB 333 DO PASS AS AMENDED**.

02:14:51 **Substitute Motion:** Rep. Barrett made a substitute motion that **HB 333 BE AMENDED**.
EXHIBIT(tah40a02)

Discussion:

02:15:00 Mr. Martin

02:16:43 **Substitute Motion:** Rep. Knudsen made a substitute motion that **THE AMENDMENT (EXHIBIT 2) BE AMENDED TO STRIKE 20% REPLACE IT WITH 5%.**

Discussion:
02:17:17 Rep. Phillips
02:17:21 Chairman Blasdel
02:17:51 Rep. Phillips
02:18:01 Rep. Knudsen
02:18:20 Rep. Barrett
02:18:26 Rep. Knudsen
02:18:42 Rep. Phillips
02:18:54 Rep. Barrett
02:19:40 Chairman Blasdel
02:19:59 Mr. Martin
02:20:16 Rep. Stahl
02:21:12 Rep. Phillips
02:21:59 Rep. Barrett
02:23:46 Rep. Taylor

02:24:59 **Vote:** Substitute Motion carried 13-6 by roll call vote with Rep. Barrett, Rep. Malek, Rep. McClafferty, Rep. McNally, Rep. Phillips and Rep. Williams voting no. Rep. McClafferty and Rep. Randall voted by proxy.

02:27:00 Rep. Barrett asked for clarification of the previous vote, stated he was opposed to the substitute motion and requested a vote on the amendment as amended.

02:28:08 **Vote:** Motion to the amendment (Exhibit 2) as amended carried unanimously by voice vote. Rep. McClafferty and Rep. Randall voted by proxy.

02:28:57 **Motion:** Rep. Miller moved that **HB 333 DO PASS AS AMENDED**.

Discussion:
02:29:07 Rep. Barrett

02:29:10 **Vote:** Motion carried 13-6 by roll call vote with Rep. Barrett, Rep. Malek, Rep. McClafferty, Rep. McNally, Rep. Phillips and Rep. Williams voting no. Rep. McClafferty and Rep. Randall voted by proxy.

EXECUTIVE ACTION ON HB 357

02:30:30 **Motion:** Rep. Miller moved that **HB 357 DO PASS**.

Discussion:
02:31:31 Rep. Hoven
02:32:03 Rep. Barrett

02:34:03 **Vote:** Motion carried 11-7 by roll call vote with Rep. Barrett, Rep. Fitzpatrick, Rep. Hoven, Rep. Malek, Rep. McNally, Rep. Phillips and Rep. Williams voting no. Rep. McClafferty was excused. Rep. Randall voted by proxy.

EXECUTIVE ACTION ON HB 358

02:35:43 **Motion/Vote:** Rep. Miller moved that **HB 358 DO PASS**. Motion carried 12-6 by roll call vote with Rep. Barrett, Rep. Hale, Rep. Malek, Rep. McNally, Rep. Phillips and Rep. Williams voting no. Rep. Randall voted by proxy. Rep. McClafferty was excused.

EXECUTIVE ACTION ON HB 460

02:37:04 **Motion:** Rep. Miller moved that **HB 460 DO PASS**.

02:37:43 **Motion:** Rep. Fitzpatrick moved that **HB 460 BE AMENDED**.
EXHIBIT(tah40a03)

Discussion:

02:38:31 Rep. Barrett
02:38:40 Rep. Fitzpatrick
02:38:46 Mr. Martin
02:40:32 Rep. Barrett
02:40:44 Rep. Fitzpatrick
02:40:48 Chairman Blasdel

02:41:05 **Vote:** Motion carried unanimously by voice vote. Rep. McClafferty and Rep. Randall voted by proxy.

02:41:20 **Motion/Vote:** Rep. Barrett moved that **HB 460 DO PASS AS AMENDED**. Motion carried unanimously by voice vote. Rep. McClafferty and Rep. Randall voted by proxy.

Discussion:

02:44:00 Chairman
02:44:04 Rep. Phillips
02:44:29 Chairman Blasdel
02:45:07 Rep. Phillips
02:45:21 Chairman Blasdel

ADJOURNMENT

02:45:31 Adjournment: 11:51am

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Lisa Adams, Secretary

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Additional Documents:

EXHIBIT(tah40aad.pdf)

EXHIBIT 3
DATE 2/18/11
HB 460

Amendments to House Bill No. 460
1st Reading Copy

Requested by Representative Steve Fitzpatrick

For the House Taxation Committee

Prepared by Jeff Martin
February 17, 2011 (5:49pm)

1. Title, page 1, line 6.
Strike: "DOES NOT"
Insert: "MAY"

2. Page 5, line 22.
Strike: "**inapplicability to**"
Insert: "optional declaration for"

3. Page 5, line 27.
Following: "(2)"
Insert: "A declaration for a townhome or townhouse may be executed under this section."
Strike: "do not"
Following: "townhouses"
Insert: "only if a declaration is executed under this section."

- END -

MINUTES

MONTANA SENATE
62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: Chair Bruce Tutvedt, on March 16, 2011 at 8:00 AM, in Room 405 Capitol

ROLL CALL

Members Present:

Sen. Bruce Tutvedt, Chair (R)
Sen. Bob Lake, Vice Chair (R)
Sen. Ron Arthun (R)
Sen. Gary Branae (D)
Sen. Ron Erickson (D)
Sen. Kim Gillan (D)
Sen. Christine Kaufmann (D)
Sen. Art Wittich (R)

Members Excused:

Sen. Jeff Essmann (R)
Sen. Jim Peterson (R)
Sen. Kendall Van Dyk (D)
Sen. Chas Vincent (R)

Members Absent: None

Staff Present:

Lee Heiman, Legislative Branch
Debra Polhemus, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:	HB 460, 3/12/2011 SB 395, 3/9/2011 SB 396, 3/9/2011
Executive Action:	SB 395 (Amendment added)

HEARING ON HB 460

Opening Statement by Sponsor:

00:00:36 Rep. Ken Peterson (R), HD 46, opened the hearing on HB 460, Revise unit ownership act affecting townhouses.

Proponents' Testimony:

00:03:24 Tom Llewellyn , Realtor, Billings
00:05:19 Dustin Stewart, Executive Director, Montana Building Industry Association (MBIA)
00:06:02 Joe Roberts, representing Montana Association of Realtors (MAR)
00:06:32 Linda Stoll, representing Missoula County

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:07:33 Sen. Wittich
00:09:16 Rep. Peterson
00:09:40 Sen. Wittich
00:10:35 Rep. Peterson
00:11:06 Tom Llewellyn
00:12:44 Sen. Wittich
00:13:08 Rep. Peterson
EXHIBIT(tas59a01)
00:14:59 Sen. Wittich
00:15:38 Dan Bucks, Director, Department of Revenue (DOR), without objection from the committee
00:16:55 Sen. Wittich
00:17:36 Dan Bucks, DOR
00:19:55 Sen. Kaufmann
00:20:07 Sen. Lake
00:20:48 Tom Llewellyn
00:21:38 Sen. Lake
00:22:26 Dan Bucks
00:23:49 Sen. Lake
00:24:17 Dan Bucks
00:25:45 Chairman Tutvedt
00:26:00 Tom Llewellyn
00:27:39 Chairman Tutvedt
00:28:03 Rep. Peterson

Closing by Sponsor:

00:30:09 Rep. Ken Peterson

HEARING ON SB 396

Opening Statement by Sponsor:

00:31:59 Sen. Kim Gillan (D), SD 24, opened the hearing on SB 396, Provide for nonresident and resident tax equity on business interest sales.

Proponents' Testimony:

00:36:41 Dan Bucks, Director, Department of Revenue (DOR)
EXHIBIT(tas59a02)
EXHIBIT(tas59a03)
EXHIBIT(tas59a04)
00:56:50 Tara Veazey, Montana Budget and Policy Center (MBPC)
00:58:24 Diane Fladmo, representing MEA/MFT

Opponents' Testimony:

00:59:26 George S. Olsen, representing Montana Society of Certified Public Accountants (MSCPA)

01:04:04 Senator Van Dyk arrived at committee hearing

Informational Testimony:

01:06:28 Brenda Gilmer, Attorney, DOR
01:09:25 Dan Dodds, DOR

Questions from Committee Members and Responses:

01:09:40 Sen. Kaufmann
01:10:14 Dan Bucks, DOR
01:13:04 Sen. Wittich
01:15:14 Dan Bucks
01:19:29 Sen. Wittich
01:20:25 Dan Bucks
01:22:09 Chairman Tutvedt
01:22:46 Dan Bucks
01:26:22 Chairman Tutvedt
01:26:42 Dan Bucks
01:28:58 Sen. Arthun
01:29:07 Dan Bucks
01:30:39 Chairman Tutvedt
01:31:01 George Olson, MSCPA
01:33:35 Sen. Arthun
01:33:49 George Olson
01:34:10 Sen. Erickson
01:34:26 George Olson
01:35:13 Sen. Erickson
01:35:20 Dan Bucks

01:36:34 Sen. Wittich
01:38:46 George Olson
01:39:24 Sen. Wittich
01:39:59 Chairman Tutvedt
01:41:09 Dan Bucks
01:42:16 Chairman Tutvedt
01:42:24 Dan Bucks

Closing by Sponsor:

01:45:12 Sen. Kim Gillan
01:50:25 Chairman Tutvedt

01:51:00 Recess
02:05:00 Reconvene

Additional Questions from Committee Members on SB 396:

02:05:05 Chairman Tutvedt
02:05:19 Rocky Haralson, DOR, without objection from committee
02:05:34 Sen. Wittich
02:06:46 Rocky Haralson
02:08:47 Sen. Wittich
02:10:20 Chairman Tutvedt
02:10:39 Rocky Haralson
02:11:27 Chairman Tutvedt
02:11:46 Rocky Haralson
02:12:30 Sen. Lake
02:13:10 Rocky Haralson

HEARING ON SB 395

Opening Statement by Sponsor:

02:13:28 Sen. Art Wittich (R), SD 35, opened the hearing on SB 395, Extend class 14 tax classification to all new generating and fuel facilities.

EXHIBIT(tas59a05)

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony:

02:20:55 Gene Walborn, Administrator, Business and Income Taxes Division , DOR
02:22:04 Chairman Tutvedt
02:22:15 Ralph Franklin, Senior Revenue Analyst, Budget and Program Planning Office, Office of the Governor (BPPO)

Questions from Committee Members and Responses:

02:22:49 Sen. Gillan
02:23:17 Sen. Wittich
02:24:29 Sen. Gillan
02:25:09 Sen. Wittich
02:25:57 Sen. Erickson
02:26:44 Sen. Wittich
02:30:47 Sen. Erickson
02:31:23 Sen. Wittich
02:32:34 Sen. Arthun
02:33:07 Gene Walborn, DOR
02:33:23 Sen. Arthun
02:33:38 Gene Walborn
02:33:49 Chairman Tutvedt
02:34:24 Sen. Wittich
02:35:18 Chairman Tutvedt
02:35:25 Gene Walborn
02:37:38 Sen. Lake
02:38:35 Sen. Wittich
02:39:10 Sen. Lake
02:40:34 Sen. Wittich
02:42:15 Chairman Tutvedt
02:42:39 Ralph Franklin, BPPO

Closing by Sponsor:

02:43:22 Sen. Art Wittich

EXECUTIVE ACTION ON SB 395

(Senators Van Dyk, Gillan, Peterson, Essmann, and Vincent excused)

02:44:30 **Motion:** Sen. Lake moved that **SB 395 DO PASS**.

02:44:40 **Motion:** Sen. Lake moved that **SB 395 BE AMENDED**. (See Exhibit 5)

Discussion:

02:44:53 Lee Heiman, Legislative Services Division, (LSD), discussed conceptual technical amendment to remove the text "consumed within the state" .

02:45:17 **Substitute Motion/Vote:** Sen. Lake made a substitute motion that **SB 395 BE AMENDED** to include the technical changes as recommended by Lee Heiman. Substitute Motion carried 7-0 by voice vote of those present and voting.

ADJOURNMENT

Adjournment: 10:45 A.M.

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Debra Polhemus, Secretary

dp

Additional Documents:

EXHIBIT(tas59aad.pdf)

SENATE TAXATION
EXHIBIT NO. 1
DATE 3.16.11
BILL NO. HB 460

Amendments to House Bill No. 460
3rd Reading Copy

Requested by Representative Ken Peterson

For the Senate Taxation Committee

Prepared by Lee Heiman
March 16, 2011 (7:24am)

1. Title, page 1, line 6.
Following: "TOWNHOUSES;"
Insert: "CONFORMING PROVISIONS OF THE UNIT OWNERSHIP ACT WITH THE DEFINITIONS OF "TOWNHOUSE"AND "TOWNHOME";"

2. Title, page 1, line 7.
Strike: the first "AND"
Following: "70-23-103,"
Insert: "70-23-301, AND 76-3-203,"

3. Page 5, line 30.
Insert: "Section 3. Section 70-23-301, MCA, is amended to read:
"70-23-301. Contents of declaration. A declaration must contain:
(1) a description of the land, whether leased or in fee simple, on which the building is located or is to be located;
(2) the name by which the property will be known and a general description of the building, including the number of stories and basements, the number of units, and the principal materials of which it is constructed;
(3) the unit designation, location, approximate area of each unit, and any other data necessary for proper identification;
(4) a description of the general common elements and the percentage of the interest of each unit owner in the common elements;
(5) a description of the limited common elements, if any, stating to which units their use is reserved and in what percentage;
(6) a statement of the use for which the building and each of the units is intended;
(7) the name of a person to receive service of process in the cases provided in 70-23-901 and the residence or place of business of the person which must be within the county in which the property is located;
(8) an exhibit containing certification from the applicable local government that the condominiums, townhomes, or townhouses are either exempt from review under 76-3-203 or have been approved following review under Title 76, chapter 3, parts 5 and 6; and

(9) any other details regarding the property that the person executing the declaration considers desirable."
{*Internal References to 70-23-301:*
70-23-103 a *70-23-302 x* *70-23-302 x* *70-23-902x* }"

Insert: "Section 4. Section 76-3-203, MCA, is amended to read:

"76-3-203. Exemption for certain condominiums. Condominiums, townhomes, or townhouses, as those terms are defined in 70-23-102, constructed on land subdivided in compliance with parts 5 and 6 of this chapter or on lots within incorporated cities and towns are exempt from the provisions of this chapter if:

(1) the approval of the original subdivision of land expressly contemplated the construction of the condominiums, townhomes, or townhouses and any applicable park dedication requirements in 76-3-621 are complied with; or

(2) the condominium, townhome, or townhouse proposal is in conformance with applicable local zoning regulations when local zoning regulations are in effect."

{*Internal References to 76-3-203:*
70-23-301a }"

Renumber: subsequent sections

- END -

MINUTES

MONTANA SENATE
62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: Chair Bruce Tutvedt, on March 22, 2011 at 8:00 AM, in Room 405 Capitol

ROLL CALL

Members Present:

Sen. Bruce Tutvedt, Chair (R)
Sen. Bob Lake, Vice Chair (R)
Sen. Ron Arthun (R)
Sen. Gary Branae (D)
Sen. Ron Erickson (D)
Sen. Christine Kaufmann (D)
Sen. Kendall Van Dyk (D)
Sen. Art Wittich (R)

Members Excused:

Sen. Jeff Essmann (R)
Sen. Kim Gillan (D)
Sen. Jim Peterson (R)
Sen. Chas Vincent (R)

Members Absent: None

Staff Present:

Lee Heiman, Legislative Branch
Debra Polhemus, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 411, 3/17/2011; SB 413, 3/18/2011

Executive Action: HB 460 ~ Do Concur As Amended
HB 107 ~ Discussion

Committee Business:

00:00:50 Chairman Tutvedt
00:01:25 Sen. Lake
00:03:06 Chairman Tutvedt

HEARING ON SB 413

Opening Statement by Sponsor:

00:03:43 Sen. Joe Balyeat (R), SD 34, opened the hearing on SB 413, Revise tax laws.
EXHIBIT(tas64a01)

Proponents' Testimony:

00:05:55 Holly Franz, representing the Montana Society of CPA's (MTSCPA)
00:07:06 Gene Walborn, Administrator, Business and Income Taxes Division, Department of Revenue (DOR)
EXHIBIT(tas64a02)
00:09:54 Lee Heiman, Legislative Services Division (LSD)
00:10:37 Gene Walborn, DOR
00:11:29 Dan Bucks, Director, DOR
00:14:21 Sen. Lake
00:14:36 Dan Bucks

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:16:32 Sen. Kaufmann
00:17:08 Dan Bucks
00:18:53 Sen. Kaufmann
00:19:14 Dan Bucks
00:21:04 Chairman Tutvedt

Closing by Sponsor:

00:21:22 Sen. Bruce Tutvedt on behalf of Sen. Balyeat

HEARING ON SB 411

Opening Statement by Sponsor:

00:21:42 Sen. Ron Erickson (D), SD 47, opened the hearing on SB 411, Revise administration of tax interest, penalties and delinquencies.

00:22:06 Senator Gillan arrived at the committee meeting

Proponents' Testimony:

00:23:58 Dan Bucks, DOR
00:31:41 Gene Walborn, DOR
EXHIBIT(tas64a03)
00:41:54 Holly Franz, representing Montana Society of CPAs (MTSCPA)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:45:03 Sen. Kaufmann
00:45:55 Sen. Erickson
00:46:48 Sen. Kaufmann
00:47:00 Lee Heiman, LSD
00:47:39 Sen. Arthun
00:48:08 Gene Walborn, DOR
00:49:27 Sen. Arthun
00:49:41 Gene Walborn
00:51:20 Sen. Wittich
00:51:51 Gene Walborn
00:54:46 Sen. Erickson

Closing by Sponsor:

00:55:11 Sen. Erickson
00:56:38 Chairman Tutvedt

Committee Business:

00:58:53 Sen. Wittich
00:59:37 Sen. Erickson
01:00:22 Sen. Van Dyk
01:00:41 Sen. Erickson
01:00:51 Sen. Kaufmann

EXECUTIVE ACTION ON HB 460

01:02:43 **Motion:** Sen. Lake moved that **HB 460 BE CONCURRED IN**.

01:03:07 **Motion:** Sen. Lake moved that **HB 460 BE AMENDED**.

Discussion:

01:03:34 Lee Heiman, LSD

01:04:32 **Vote:** Motion carried 9-0 by voice vote of those present and voting.

01:04:45 **Motion:** Sen. Lake moved that **HB 460 BE CONCURRED IN AS AMENDED**.

Discussion:

01:05:01 Sen. Wittich
01:06:06 Chairman Tutvedt
01:06:26 Sen. Lake
01:06:47 Chairman Tutvedt

01:06:56 **Vote:** Motion carried 9-0 by voice vote of those present and voting. Sen. Lake will carry the bill.

EXECUTIVE ACTION ON HB 107

01:07:37 **Motion:** Sen. Gillan moved that **HB 107 BE CONCURRED IN**.

01:08:22 **Motion:** Sen. Lake moved that **HB 107 BE AMENDED**.
EXHIBIT(tas64a04)

Discussion:

01:08:49 Lee Heiman, LSD
EXHIBIT(tas64a05)
01:10:31 Sen. Gillan
01:11:12 Sen. Wittich
01:12:55 Sen. Gillan
01:14:02 Lee Heiman
01:14:19 Sen. Gillan
01:14:29 Sen. Erickson
01:14:49 Chairman Tutvedt
01:15:02 Lee Heiman
01:15:19 Sen. Wittich
01:15:34 Lee Heiman
01:16:05 Sen. Wittich
01:17:28 Chairman Tutvedt
01:17:34 Sen. Gillan
01:19:28 Sen. Lake
01:20:40 Sen. Kaufmann
01:21:14 Lee Heiman
01:21:40 Sen. Kaufmann
01:21:47 Sen. Wittich
01:22:51 Chairman Tutvedt
01:23:37 Sen. Gillan
01:24:11 Sen. Wittich
01:25:54 Sen. Gillan

01:26:22 Sen. Lake **WITHDREW MOTION HB 107 BE AMENDED.**

01:26:35 Sen. Gillan **WITHDREW MOTION HB 107 BE CONCURRED IN.**

Committee Business:

01:27:30 Chairman Tutvedt
01:27:59 Sen. Erickson
01:28:23 Sen. Gillan

Additional Exhibits:

EXHIBIT(tas64a06)
Bio sheet on Samantha Sanchez, nominee to State Tax Appeal Board
EXHIBIT(tas64a07)
No Hearing Request for SB 407 by Sponsor Senator Bob Lake

ADJOURNMENT

Adjournment: 9:35 A.M.

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Debra Polhemus, Secretary

dp

Additional Documents:

EXHIBIT(tas64aad.pdf)